

House Hrg

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HOUSE COMMITTEE ON LOCAL GOVERNMENT

January 23, 2003

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SENATE JUDICIARY

COMMITTEE NO. 4

2/10/11

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acquire data to determine how the new subdivision will impact the community's need. She asked for a DO PASS on HB 324.

HEARING ON HB 264

{Tape: 2; Side: A; Approx. Time Counter: 8.6 - 10.5}

Sponsor: REPRESENTATIVE CAROL GIBSON, HD 20, BILLINGS

Opening Statement by Sponsor:

REP. GIBSON said HB 264 would require that county officers use county personnel policy when dealing with their staff.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 10.5 - 14.5}

Harold Blattie, Assistant Director Montana Association of Counties (MACO), said that there have been many instances of supervisors not following the requirements of both federal and state law during personnel hiring and firing and subjecting the governing body to lawsuits. Amendments have been drafted to clarify that this is not meant to supervise the elected official, but to require their use of personnel policy.  
EXHIBIT (loh14a03)

Bill Kennedy, Yellowstone County Commissioner, said this bill is just to cover the liability question, by clarifying that everyone needs to follow uniform county personnel policies.

Terry Minow, Montana Education Association-Montana Federation of Teachers, (MEA-MFT), said they represent county employees of Jefferson, Butte-Silver Bow, and Missoula counties. She said that it makes sense that the commissioners who are the trustees of the county are the employer, and should be able to set employee personnel policy and make sure everyone abides by them.

Anita Varone, Lewis and Clark County Commissioner, urged the committee to vote favorably on HB 264.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 15.8 - 22.9}

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**REP. MORGAN** asked why this clarification was necessary. **Bill Kennedy** said that if there is no uniformity, some elected officials may not follow personnel policies. Yellowstone County recently had just such a problem, and not adhering to policy cost the county a lot of money in lawsuits.

**REP. CARNEY** asked if there are consequences for not following policy and what they are. **Bill Kennedy** said that by having this uniformity in Statute, supervisors would be more likely to adhere to it, but if they break Statute, there are consequences.

**CHAIRMAN NOENNIG** asked for further follow-up on the question of consequences. "Did someone refuse to follow the policy or not know about it?" **Bill Kennedy** explained that an elected official wrote their own personnel policy on hiring and firing and did not follow the standards adopted by the commissioners. He said that there is nothing in Statute that requires adherence to policy.

**CHAIRMAN NOENNIG** asked whether a department violated its own policy. "Or did it follow its own policy, which was different from the county policy, which resulted in the liability?" **Bill Kennedy** said: "That is correct." In countywide policy every employee "signs off" on an acknowledgment that they have read the policy. Yellowstone County had an elected official that wrote their own policy on terminations, breaks and vacations, and decided not to follow it.

**CHAIRMAN NOENNIG** asked if the employee's claim was that they didn't like the policy, i.e., it isn't county policy, and the county has no power to do this even though they are the employer? **Bill Kennedy** said that when they negotiate, they have seven bargaining units in the county and they also go back to policy adopted in those bargaining units. If policies are not followed, the bargaining units are not adhering to the contract. There have been many grievances relating to contract adherence.

**CHAIRMAN NOENNIG** asked if the elected official that adopted their own policy agreed with this plan. **Bill Kennedy** said that the elected official is no longer an elected official.

*{Tape: 2; Side: A; Approx. Time Counter: 22.9 - 24}*

Closing by Sponsor:

**REP. GIBSON** said that she hoped all the committee's questions were answered satisfactorily and asked for a DO PASS on both the bill and the amendments.

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**Mona Jamison, Gallatin County** said they were in support of the bill. They thought it was reasonable and made good sense, and she urged the committee's support.

**Tammy McGill, Stillwater County** said her county was small but very fast growing. She said the extension of time would be greatly appreciated. She said it would allow her to update her subdivision regulations to keep up with state statute. She encouraged their support.

**Elaine Sliter, Anderson and Baker** said they were in support of the bill. She said Ann Hedges from the Montana Environmental Information Center wanted to be on record in support of the bill.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR CAROLYN SQUIRES** asked if there were any dramatic changes concerning annexation she should pay attention to.

**REPRESENTATIVE EVERETT** said as far as he knew it just allows you to go back to the original master plan and use that process.

**SENATOR JOHN ESP** said they had passed a bill out of the Senate that said a growth policy was a master plan or a comprehensive plan. If that passed the house would this be as relevant.

**REPRESENTATIVE EVERETT** said no. He said this was mainly to move the date in case the other bill did not get out of hearings.

**Closing by Sponsor:**

**REPRESENTATIVE EVERETT** thanked the proponents. He said it just moved the date out five years. He said at a time when they were trying to encourage economic growth they could not afford not to have small projects in the community.

**HEARING ON HB 264**

**Sponsor:** **REPRESENTATIVE CAROL GIBSON, HD 20, Billings**

**Proponents:**

**Harold Blattie, MT Association of Counties**  
**Donna Sevalstad, Beaverhead County**

Opponents:

None

Opening Statement by Sponsor:

REPRESENTATIVE CAROL GIBSON, HD 20, Billings said the bill was suggested by the counties and had to do with elected officials of county government who on few occasions have not followed personnel policy. Out of that sometimes comes a situation where what is being asked of employees is different than what is in county policy. She said that occasionally caused problems and sometimes lawsuits. She said the sheriff department had some problems with the bill at first, but their concerns were taken care of. She allowed the people to testify at that time.

Proponents' Testimony:

Harold Blattie, MT Association of Counties said the bill did originate in Yellowstone County. He explained that situation. He said the bill was intended to say that other elected officials need to use a properly adopted personnel policy in the supervision of their staff. Unfortunately some folks were reading into that, that as elected officials they were also subject to the policy and that was not the intention. He thought the amendments put on in the House resolve that. He said it was imperative that all employees were subject to a personnel policy that has been approved by the governing body. He said he would be available for questions.

Donna Sevalstad, Beaverhead County said she had not planned to testify on this bill but couldn't help her self. She said they had a situation in their county that this bill would solve so she urged their support.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SENATOR BRENT CROMLEY said he did not understand if the sheriffs were in or out.

REPRESENTATIVE GIBSON said the sheriffs opposed the bill, and after some amendments they endorsed it.

SENATOR CROMLEY asked when that was done.

**REPRESENTATIVE GIBSON** said that was done before it went to the House.

**SENATOR CROMLEY** said there was some reference made in testimony that if you were from Yellowstone County you would know the problem. He maintained he did not know what had prompted the bill.

**REPRESENTATIVE GIBSON** said there had been occasions in Yellowstone County where they had not followed personnel policy.

**SENATOR RICK LAIBLE** asked what sort of things would take place that you would try to control.

**Donna Sevalstad** said they had a non-qualified elected official that wasn't doing the job, so that forced the commissioners to take duties out of that office. She said the official then hired someone in the office without the budget to do so.

**SENATOR LAIBLE** said so this bill as written would prevent an elected official from hiring additional staff when they felt it was necessary if in fact the governing bodies felt it wasn't necessary.

**Donna Sevalstad** said she hadn't advertised when she hired the person and there was no budget to hire the person, and they were now in the process of having the county attorney let the person go. The person was not happy because they thought they had a job. She reiterated that personnel policy was not followed when this person was hired.

**SENATOR SQUIRES** asked about the sheriffs deputies wanting to be out, does it make a difference in this bill.

**Harold Blattie** replied yes that was existing language. He said language was put in with the amendment to address the concerns of the sheriffs and peace officers.

**SENATOR SQUIRES** asked on line two what the word "officers" meant.

**Leanne Kurtz** said that meant elected county officials.

**SENATOR LAIBLE** asked if officers would be elected officials.

**Leanne Kurtz** referenced line 13, "all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing public revenue." She said she may have mis-spoke before it would be all county officers not just elected.